

REMARKS

Rejections under 35 U.S.C. § 103(a)

I. Claims 1-34 are not obvious over Marino

Claims 1-34 have been rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,950,960, hereinafter Marino. The Examiner asserts that Marino teaches an apparatus capable of being sold to the public and further comprising a first and second housing so as to house moist wipes and specifically a dry roll of tissue/toilet paper intended for use on a human body surface. (Paper 9, page 2). The Examiner admits that Marino fails to teach or suggest:

- 1) "instructing a user to wipe an animal body surface with a fresh product at least three times";
- 2) instructing the user to wipe with either of the products (wet wipes or dry tissue/toilet paper) using selected sequences and combinations (i.e., "wipe the surface with a dry product, followed by wiping the surface with a dry product followed by wiping the surface with a wet product" ...); or
- 3) a plurality of wet wipes or toilet tissue, i.e. "the first number of portions is double the second number of portions." Paper 9, page 2.

However, the Examiner asserts that all of the claims of the application are obvious because it would have been known to one of skill in the art to use a plurality of wet wipes or toilet tissue with the device disclosed by Marino. Further, the Examiner asserts that all of the claims of the application are obvious because it is well known to supply a user with instructional data associated with the devices for sale, so as to better inform a user to the intended operation of a device by a manufacturer.

The rejection of the claims over Marino is respectfully traversed, as Marino does not teach or suggest each and every element of the claimed invention. Specifically, with regard to Independent Claims 1, 12, 23, and 30, and their dependent claims, Applicants claim a method, system, and package for facilitating the cleaning of an animal body surface by instructing the user to wipe the surface **with a fresh product at least three times**. Further, the claims require that **at least one of the fresh products be dry and**

at least one of the fresh products be wet. The Examiner has failed to address these specific limitations of the claims and has failed to establish a *prima facie* case of obviousness.

The Examiner has not set forth any characterizations of Marino that would provide for the specific instructions as claimed, including the selected sequences and/or combinations of “fresh product” used. Instead, the Examiner merely asserts that it would have been obvious to include instructions and obvious to provide enough wipes and toilet tissue to keep the device adequately supplied. These assertions do not address the actual claim language, however. Independent claims 1, 12, 23 and 30 do not recite general instructions, but rather recite specific instructions regarding the sequence and/or combination of fresh products used. Marino does not teach or suggest, nor has the Examiner asserted that Marino teaches or suggests, the specific instructions recited in the claims.

In addition to failing to teach or suggest Applicants’ claimed instructions, Marino teaches away from including instructions directed to specific sequences and/or combinations of fresh products. At col. 1, lines 56-60, Marino states that:

“[I]t would be desirable to provide such a dispenser which also can be utilized to dispense dry tissue so that satisfactory use can be attained from users who prefer dry tissue and users who prefer moist tissue.”

By acknowledging that it would be desirable to accommodate users that prefer wet tissue instead of dry tissue, Marino cannot be found to suggest that the wet and the dry tissue be used together. Therefore, the Examiner has failed to provide a *prima facie* case of obviousness with respect to Marino.

The Examiner also has failed to address other specific aspects of the Applicants’ claims. As noted above, the independent claims recite the use of a fresh product. Applicants’ specification gives a specific definition of what constitutes a “fresh product.” On page 7, lines 15-23 of the Applicants’ specification, “fresh product” is defined as:

“A product is considered “fresh” if its surface does not contain soil. For example, wet cloths or sponges may be considered fresh if, after wiping soil from a surface, the soil is removed from the product by rinsing or washing. Similarly, a chamois may be considered fresh if it is allowed to dry after absorbing liquid from a surface. Disposable wiping

products or portions thereof such as toilet tissue, paper towels, napkins, and wet wipes are considered fresh if they have not been used to remove soil from a surface."

Marino does not teach or suggest, nor has the Examiner asserted that Marino teaches or suggests, the use of fresh products as recited in the claims. Other elements of the claims which have not yet been addressed include the specific instructions set forth in dependent claims 2-7, the product identifiers recited in claims 11, 22 and 34, and the specific ratios of wet and dry products recited in claims 24-29. These claim recitations, likewise, must be addressed with a genuine suggestion or motivation from the reference or other documentation. Because the Examiner has not yet set forth a *prima facie* case of obviousness, Applicants respectfully request the rejections be withdrawn.

The conclusory statements presented regarding obvious design choices of one skilled in the art are insufficient to establish a *prima facie* case of obviousness. MPEP 2143.01 states that, with reference to *Ex parte Levingood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993):

A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art" at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is **not sufficient** to establish a *prima facie* case of obviousness without some **objective reason to combine** the teachings of the references. [Bold emphasis added]

The Examiner has not yet provided any evidence of a motivation or suggestion to modify the Marino reference, either from statements within the reference or from other documentary evidence on the record. Thus, the conclusory statement of obviousness "to one of ordinary skill in the art" would be insufficient to establish a *prima facie* case of obviousness under 35 U.S.C. § 103, even if a combination with another reference provided disclosure of each and every element of the claims, which they do not. On this basis alone, Applicants respectfully request the Examiner to withdraw this rejection.

SUMMARY

Pending Claims 1-34 are patentable. Furthermore, the Examiner has failed to set forth a *prima facie* case of obviousness with regard to the claims, as submitted. Applicants respectfully request the Examiner grant early allowance of this application. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,


Amanda M. Church
Amanda M. Church
Registration No. 52,469
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200